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|---|----------------------|------------------------|-------------|
| <b>TRANSMITTAL FORM</b><br>(to be used for all correspondence after initial filing) | Application Number   | 10/748,050             |             |
|   | Filing Date          | December 30, 2003      |             |
|   | First Named Inventor | Pol O. MORAIN, et al.  |             |
|   | Group Art Unit       | 2164                   |             |
|   | Examiner Name        | Samuel G. Rimell       |             |
| Total Number of Pages in This Submission  |                      | Attorney Docket Number | 001508-3671 |

| ENCLOSURES (check all that apply)  |   |  |
|--|---|--|
| <input type="checkbox"/> Fee Transmittal Form<br><input type="checkbox"/> Fee Attached<br><input checked="" type="checkbox"/> Request for Reconsideration<br><input type="checkbox"/> After Final<br><input type="checkbox"/> Affidavits/declaration(s)<br><input type="checkbox"/> Extension of Time Request<br><input type="checkbox"/> Express Abandonment Request<br><input type="checkbox"/> Information Disclosure Statement<br><input type="checkbox"/> Certified Copy of Priority Document(s)<br><input type="checkbox"/> Response to Missing Parts/Incomplete Application<br><input type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53 | <input type="checkbox"/> Assignment Papers (for an Application)<br><input type="checkbox"/> Drawing(s)<br><input type="checkbox"/> Declaration and Power of Attorney<br><input type="checkbox"/> Licensing-related Papers<br><input type="checkbox"/> Petition<br><input type="checkbox"/> Petition to Convert to a Provisional Application<br><input type="checkbox"/> Power of Attorney, Revocation Change of Correspondence Address<br><input type="checkbox"/> Terminal Disclaimer<br><input type="checkbox"/> Request for Refund<br><input type="checkbox"/> CD, Number of CD(s) _____ | <input type="checkbox"/> After Allowance Communication to Group<br><input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences<br><input type="checkbox"/> Appeal Communication to Group (Appeal Notice, Brief, Reply Brief)<br><input type="checkbox"/> Proprietary Information<br><input type="checkbox"/> Status Letter<br><input type="checkbox"/> Application Data Sheet<br><input type="checkbox"/> Request for Corrected Filing Receipt with Enclosures<br><input type="checkbox"/> A self-addressed prepaid postcard for acknowledging receipt<br><input type="checkbox"/> Other Enclosure(s) (please identify below):<br>1. |
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| SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT |  |
|--|--|
| Firm or Individual name                    | Jessica M. Egner; Reg. No. 51,646<br>Nixon Peabody LLP<br>401 9 <sup>th</sup> Street, N.W.<br>Suite 900<br>Washington, D.C. 20004-2128 |
| Signature                                  |  |
| Date                                       | March 23, 2007   |

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Attorney Docket No. 001508-3671

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re PATENT application of )  
Pol O. MORAIN, et al. )  
Application No. 10/748,050 ) Group Art Unit: 2164  
Filed: December 30, 2003 ) Examiner: Samuel G. Rimell  
Confirmation No. 6786 )  
For: SYSTEM AND METHOD FOR )  
PROVIDING USAGE METRICS OF )  
DIGITAL CONTENT )

**REQUEST FOR RECONSIDERATION**

United States Patent and Trademark Office  
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Sir:

The following remarks are submitted to be fully responsive to the Office Action of January 23, 2007. Reconsideration of this application in light of the remarks and the allowance of this application are respectfully requested.

**USC 101 Rejection**

Referring now to the Office Action, claims 1-19, and 21-28 are rejected under 35 U.S.C. 101 because the claimed invention is inoperable and thus lacks utility. Applicants respectfully traverse.

In a previous amendment, Applicants added the limitation “a monitoring system that monitors, at the first device, consumption of digital content of a file selected from the digital content storage, and generates usage data based on one or more usage events and indicative of the manner in which the digital content is consumed, wherein said selection of said file does not involve an online session with a goods or services provider” in claim 1, the limitation “monitoring, by the first device, consumption of digital content of the stored digital content files, which are selected from the digital content storage for